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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/364,375	07/30/1999	RONEN CHAYAT	INTL-0151-US	9363
21906	7590	05/18/2006	EXAMINER	
TROP PRUNER & HU, PC 8554 KATY FREEWAY SUITE 100 HOUSTON, TX 77024			HEWITT II, CALVIN L	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/364,375

Applicant(s)

CHAYAT, RONEN

Examiner

Calvin L. Hewitt II

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-15, 17-26 and 28-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-15, 17-26, and 28-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### ***Status of Claims***

1. Claims 1-4, 6-15, 17-26, and 28-30 have been examined.

### ***Response to Amendments***

2. Applicant's claims 1, 13, and 24 originally recited the language of transmitting packets "wherein packets that take longer to process are bypassed in favor of packets that take less time to process." In the currently amended claims, the above language has been replaced by transmitting packets "of one type before packets of another type that take more time to process". Hence, the scope of the claim hasn't changed only the words used to mete out the scope, therefore the prior art continues to read on Applicant's claims.

Claims 13-23 recite conditional ("if") language. According to the MPEP, language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation (MPEP 2106, II, C). Therefore, limitations that are conditioned on an execution do not distinguish the claims from the prior art as execution does not have to occur.

Claims 24, 26, 28, and 29 recite the term "adapted". However, a structure "adapted to" perform a particular function represents intended use or functional

language, and it has been held that while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function alone.

Hence, these limitations do not differentiate the claims from the prior art.

The Examiner maintains the rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4,6-15,17-26, and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendel et al., U.S. Patent No. 6115378 in view of either DeGolia, Jr., U.S. Patent No. 6,181,692 or Lockart et al., U.S. Patent No. 6,229,806..

As per claims 1, 11, 12-24, and 30, Hendel et al. (abstract; column 2, lines 25-40; column 3, lines 25-30) disclose transmitting packets of different types (e.g. Layer 2 packets and Layer 3 or 4 packets) by means of routers (combination bridge routers) according to Applicant's claimed method. Note that Layer 2 packets because they spend minimal time processing are forwarded faster than

the layers above it (e.g. Layer 3, IP protocol packets) and that the priority of service class is implicit in the IP protocols. The differences between the above and the claimed invention is a discussion of time of packet transmission and specific priority assigned to security packets. It is noted that it is inherent that Layer 2 packets will be processed faster than Layer 3 packets and some Layer 3 packets will be by passed by Layer 2 packets as disclosed in the prior art. DeGolia, Jr. et al. (figure 3; claim 12; column 4, lines 30-40) or Lockart et al. (figures 1-4) show security packets in a quality of service environment taking more time due to their increased size and mathematical complexity. Note that the Public Key encryption standard requires 1024 bits for the key space and when employed to transmit credit card numbers through the internet uses more bandwidth due to its size and more time due to its mathematical complexity. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Hendel et al. because it is conventional and standard practice to employ a lower priority for the more complex and more lengthy packet because secure packets require greater precision due to unrecoverability of the key employed if even a few bits are in error and these components are no more than the conventional equivalents of what is disclosed in the primary items of evidence since they must by definition be Layer 3 packets or higher.

Regarding the security limitations of claims 2 and 25, either DeGolia, Jr. (figure 3; claim 12; column 4, lines 30-40) or Lockart et al. (figures 1-4) show

security packets in a quality of service environment taking more time due to their increased size and mathematical complexity which are the functional equivalents of the claim. Similarly, regarding memory (claims 3 and 6), bypass limitations (claim 4), and linking (claim 7) Hendel et al. (abstract; figure 3; column 2, lines 25-40; column 3, lines 25-30) disclose transmitting packets of different types (e.g. Layer 2 packets and Layer 3 or 4 packets) by means of routers (combination bridge routers) including memory which are the functional equivalents of the claim. Regarding security limitations (claim 8), header limitations (claim 9, 20), authentication header limitations (claims 10 and 29) DeGolia, Jr. (figure 3; claim 12; column 4, lines 30-40) or Lockart et al. (figures 1-4) show security packets in a quality of service environment taking more time due to their increased size and mathematical complexity which are the functional equivalents of the claim.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory

period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (571) 272-6709. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell, can be reached at (571) 272-6712.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

c/o Technology Center 3600

Washington, D.C. 20231

or faxed to:

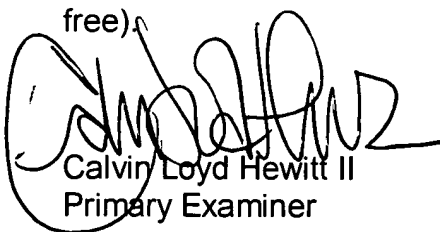
(571) 273-8300 (for formal communications intended for entry and after-final communications),

or:

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(571) 273-6709 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free)  
  
Calvin Loyd Hewitt II  
Primary Examiner

May 3, 2006